

OCT 19 2005

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ROSA HERNANDEZ-PEREZ,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-74139

Agency No. A72-988-570

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted October 11, 2005^{**}

Before: HALL, T.G. NELSON and TALLMAN, Circuit Judges.

Rosa Hernandez-Perez, a native and citizen of El Salvador, petitions for review of the Board of Immigration Appeals' ("BIA") dismissal of her appeal from an immigration judge's denial of her motion to reopen deportation proceedings

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

held in absentia. We review the denial of a motion to reopen for abuse of discretion. *Celis-Castellano v. Ashcroft*, 298 F.3d 888, 890 (9th Cir. 2002). We deny the petition for review.

The BIA did not abuse its discretion in rejecting Hernandez-Perez's claim that she did not receive notice of her hearing because the record demonstrates that the Immigration and Naturalization Service ("INS") personally served Hernandez-Perez with an Order to Show Cause ("OSC") that set forth the time, place and location of the deportation hearing in English and Spanish, and that an INS officer read the OSC to Hernandez-Perez in Spanish. *See* 8 U.S.C. § 1252b(a)(2)-(3) (repealed 1996).

Furthermore, the BIA properly determined that Hernandez-Perez's motion to reopen to apply for asylum, relief under the Convention Against Torture and adjustment of status was untimely because it was filed more than nine years after she was ordered removed in absentia, and she failed to demonstrate eligibility for any exception to the time limitations. *See* 8 C.F.R. § 1003.2(c)(2)-(3); 8 C.F.R. §1208.18(b)(2).

Hernandez-Perez's remaining contentions lack merit.

PETITION FOR REVIEW DENIED.